

(i) Activities necessitated by a DoD employee's law enforcement duties;

(ii) Activities by organizations composed primarily of DoD employees or their dependents for the benefit of welfare funds for their own members or for the benefit of other DoD employees or their dependents, subject to the limitations of local law and of § 84.9(k) and (l), when approved by the Head of the DoD Component or designee;

(iii) Private wagers among DoD employees if based on a personal relationship and transacted entirely within assigned Federal Government living quarters and within the limitations of local laws [end of General Order; or

(iv) Purchases of lottery tickets authorized by any State from blind vendors licensed to operate vending facilities in accordance with 20 U.S.C. 107a(5).

(2) Gambling with a subordinate may be a violation of Articles 133 and 134 of the Uniform Code of Military Justice (UCMJ) (10 U.S.C. 801-940).

(3) Gambling may be prohibited by Federal Government building and grounds regulations, such as 32 CFR part 40b which prohibits gambling in the Pentagon.

(d) *Outside employment and activity.* In addition to 5 CFR 3601.107 except to the extent that when procedures have been established by higher authority for any class of DoD employees (e.g., DoD Directive 6025.7⁴), agency designees may require DoD employees under their jurisdiction to report any outside employment or activity prior to engaging in the employment or activity. See § 84.10(g).

(1) The commander, head of the organization, or supervisor may prohibit the employment or activity if he believes that the proposed outside activity will detract from readiness or pose a security risk.

(2) If action is not taken to prohibit the employment or activity, the DoD employee is free to engage in the employment or activity in keeping with other restrictions of this part.

(e) *Use of military title by retirees or reserves.* Retired military members and

members of reserve components, not on active duty, may use military titles in connection with commercial enterprises, provided they clearly indicate their retired or inactive reserve status. However, any use of military titles is prohibited if it in any way casts discredit on DoD or gives the appearance of sponsorship, sanction, endorsement, or approval by DoD. In addition, in overseas areas, commanders may further restrict the use of titles by retired military members and members of reserve components.

[59 FR 13214, Mar. 21, 1994, as amended at 60 FR 20029, Apr. 24, 1995]

Subpart C—Activities With Non-Federal Entities

§ 84.8 Office of Government Ethics regulation.

See 5 CFR part 2636, "Limitations on Outside Employment and Prohibition of Honoraria; Confidential Reporting of Payments of Charities in Lieu of Honoraria."

§ 84.9 Official participation in non-Federal entities.

(a) *Attendance.* (1) Agency designees may permit their DoD employees to attend meetings, conferences, seminars or similar events sponsored by non-Federal entities in their official DoD capacities at Federal Government expense if there is a legitimate Federal Government purpose in accordance with 5 U.S.C. 4101 *et seq.* and 37 U.S.C. 412, such as training a DoD employee beyond maintaining professional credentials or gathering information of value to the DoD.

(2) DoD employees are prohibited from attending events in their official DoD capacities at Federal Government expense in order to acquire or maintain professional credentials that are a minimum requirement to hold the DoD position. See 5 U.S.C. 5946 and 31 U.S.C. 1345.

(b) *Membership.* DoD employees may serve as DoD liaisons to non-Federal entities when appointed by the head or the DoD Component command or organization who determines there is a significant and continuing DoD interest to be served by such representation. Liaisons serve as part of their official

⁴Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

DoD duties and under DoD component memberships. DoD employees may not accept DoD component membership in a non-Federal entity on behalf of DoD except as provided by statute or regulation. DoD may pay for DoD component memberships in accordance with opinions of the Comptroller General, such as 24 Comp. Gen. 814 (which may be purchased from the U.S. Government Printing Office, Washington, DC 20402). DoD is prohibited from paying for individual memberships by 5 U.S.C. 5946. See also 10 U.S.C. 2601.

(c) *Management.* DoD employees may not participate in their official DoD capacities in the management of non-Federal entities without authorization from the Head of the DoD component. However, authorized DoD employees may officially represent DoD in discussions of matters of mutual interest with non-Federal entities, may participate in the determinations and conclusions of non-Federal entities, and may cast a vote on issues within the scope of the DoD employees' official responsibilities.

(d) *Impartiality of agency designee and travel-approving Authority.* When a DoD employee requests permission to travel to or participate in activities of a non-Federal entity and the agency designee or travel approving authority is an active participant in the non-Federal entity, that agency designee or travel approving authority may not act on the DoD employee's request but shall defer such action to the next higher superior or another independent DoD authority. See 5 CFR 2635.402 and 2635.502 and 18 U.S.C. 208.

(e) *Impartiality of DoD employees.* DoD employees are generally prohibited from engaging in any official activities in which a non-Federal entity is a party or has a financial interest if the DoD employee is an active participant in the non-Federal entity or has been an officer in the non-Federal entity within the last year. See 5 CFR 2635.402 and 2635.502 and 18 U.S.C. 208.

(f) *Endorsement.* [The following is a General Order] Endorsement of a non-Federal entity may be neither stated nor implied by DoD or DoD employees and DoD employees may not use their titles or positions to suggest official endorsement or preferential treatment

of any non-Federal entity except those listed in §84.9(k) [end of General Order]. Use of military grade as part of an individual's name in relationship to membership in private organizations is permissible. See 5 CFR 2635.702(c).

(g) *Distributing information.* In accordance with public affairs regulations, official channels may be used to notify DoD employees of events sponsored by non-Federal entities.

(h) *Remuneration.* DoD employees may not receive any salary or salary supplement from a non-Federal entity for performance of DoD duties.

(i) *Co-sponsorship.* A DoD component is a sponsor or co-sponsor of an event when that DoD component is one of the organizations holding the event or in whose name the event is held. Co-sponsorship of events with a non-Federal entity is prohibited except as follows:

(1) A DoD component may co-sponsor a civic or community activity where the head of the DoD component command or organization determines that the activity is unrelated to the purpose or business of the co-sponsoring, non-Federal entity or the purpose or business of any of its members. See DoD Instruction 5410.20⁵;

(2) A DoD component may co-sponsor a conference, seminar, or similar event with a non-Federal entity when all of the following requirements are met:

(i) The head of the DoD component command or organization finds that the subject matter of the conference (or co-sponsored portion) is scientific, technical or professional issues that are relevant to the DoD component's mission;

(ii) The head of the DoD component command or organization finds that the purpose of co-sponsorship is to transfer federally developed technology or to stimulate wider interest and inquiry into the scientific, technical or professional issues previously identified;

(iii) The non-Federal entity is a recognized scientific, technical or professional organization approved by the DoD component DAE0 for this purpose; and

(iv) The DoD component accomplishes the co-sponsorship through a

⁵See footnote 4 to §84.7(d).

contract, grant or cooperative agreement as identified in 31 U.S.C. 6303 through 6306; or a Cooperative Research and Development Agreement (CRDA) as defined in 15 U.S.C. 3710a; or a cooperative agreement or other transaction identified in 10 U.S.C. 2371.

(3) If the DoD component desires to sponsor an event, but requires assistance in making the arrangements, the DoD component may arrange, through normal acquisition procedures, to have a non-Federal entity provide whatever assistance is necessary. If the event is open to individuals outside the Federal Government, attendance may not be limited to members of the supporting non-Federal entity. The supporting non-Federal entity may be permitted to mention its support in conference materials, but not in terms which imply that it is sponsoring or co-sponsoring the event.

(j) *Participation in conferences and similar events.* Subject to the provisions of paragraph (l) of this section and in accordance with public affairs regulations and 31 U.S.C. 1345, DoD employees may participate in their official DoD capacities as speakers or panel members at conferences, seminars, or similar events sponsored by non-Federal entities.

(k) *Fundraising and membership drives.* (l) [The following is a General Order] Except as provided in paragraph (l) of this section, DoD components shall not officially support and DoD employees shall not officially endorse or officially participate in membership drives or fundraising for any non-Federal entity except the following organizations which are not subject to the provisions of paragraph (l) of this section:

(i) The Combined Federal Campaign (CFC);

(ii) Emergency and disaster appeals approved by the Office of Personnel Management (OPM);

(iii) Army Emergency Relief;

(iv) Navy-Marine Corps Relief Society;

(v) Air Force Assistance Fund, including:

(A) Air Force Enlisted Men's Widows and Dependents Home Foundation, Inc.;

(B) Air Force Village;

(C) Air Force Aid Society;

(D) General and Mrs. Curtis E. LeMay Foundation.

(vi) Other organizations composed primarily of DoD employees or their dependents when fundraising among their own members for the benefit of welfare funds for their own members when approved by the head of the DoD component command or organization [end of General Order].

(2) Fundraising by DoD employees is strictly regulated by Executive Order 12353, 47 FR 12785, 3 CFR, 1982 Comp., p. 139, 5 CFR part 950, DoD Directive 5035.1⁶, DoD Instruction 5035.5⁷, DoD Directive 5410.18⁸, 5 CFR 2635.808 and by the prohibition against preferential treatment established in paragraph (f) of this section.

(l) *Support of non-Federal entity events.* (1) The head of a DoD component command or organization may provide DoD employees in their official capacities as speakers, panel members or other participants, or, on a limited basis, the use of DoD facilities and equipment (and the services of DoD employees necessary to make proper use of the equipment), in support of an event sponsored by a non-Federal entity when the head of the DoD command or organization determines all of the following:

(i) The support does not interfere with the performance of official duties and would in no way detract from readiness;

(ii) The sponsoring, non-Federal entity is not affiliated with the CFC (including local CFC) or, if affiliated with the CFC, the Director, OPM or designee has no objection to DoD support of the event (OPM generally has no objection to support of events that do not specifically target Federal employees for fundraising);

(iii) The community relations with the immediate community and/or other legitimate DoD interests are served by the support;

(iv) It is appropriate to associate DoD, including the concerned Military Department, with the event;

⁶See footnote 4 to § 84.7(d).

⁷See footnote 4 to § 84.7(d).

⁸See footnote 4 to § 84.7(d).

(v) The event is of interest and benefit to the local civilian or military community as a whole;

(vi) The DoD Component command or organization is able and willing to provide the same support to comparable events that meet the criteria of this subsection and are sponsored by other similar non-Federal entities;

(vii) The use is not restricted by other statutes or regulations; and

(viii) Except for a charitable fund-raising event that meets all other criteria for DoD participation, no admission fee (beyond what will cover the reasonable costs of sponsoring the event) is charged for the event, no admission fee (beyond what will cover the reasonable costs of sponsoring the event) is charged for the portion of the event supported by the DoD, or DoD support to the event is incidental to the entire event in accordance with public affairs guidance.

(2) Involvement of DoD resources in air shows sponsored by non-Federal entities is approved or disapproved by the Office of the Assistant Secretary of Defense (Public Affairs).

(3) Speeches by DoD employees at events sponsored by non-Federal entities are not precluded when the speech expresses an official DoD position in a public forum in accordance with public affairs guidance.

(m) *Relationship governed by other authorities.* In addition to the provisions of this section, certain organizations have special relationships with the DoD or its employees specially recognized by law or by other directives. The organizations include:

(1) Certain banks and credit unions (32 CFR part 231);

(2) United Service Organization (DoD Directive 1330.12⁹);

(3) Labor organizations (5 U.S.C. Chapter 71; DoD 1400.25–M¹⁰, Chapter 711);

(4) Combined Federal Campaign (Executive Order 10927, 26 FR 2383, 3 CFR, 1959–1963 Comp., p. 508) DoD Directive 5035.1;

(5) Association of Management Officials and Supervisors (DoD Instruction 5010.30¹¹);

(6) American Registry of Pathology (10 U.S.C. 177); Henry M. Jackson Foundation for the Advancement of Military Medicine (10 U.S.C. 178); American National Red Cross (10 U.S.C. 2542); Boy Scouts Jamborees (10 U.S.C. 2544); Girl Scouts International Events (10 U.S.C. 2545); Shelter for Homeless (10 U.S.C. 2546); National Military Associations; Assistance at National Conventions (10 U.S.C. 2548); Assistance from American National Red Cross (10 U.S.C. 2602); United Seaman's Service Organization (10 U.S.C. 2604); Scouting: Cooperation and Assistance in Foreign Areas (10 U.S.C. 2606); and Civil Air Patrol (10 U.S.C. 9441–9442).

[59 FR 13214, Mar. 21, 1994, as amended at 60 FR 20029, Apr. 24, 1995]

§ 84.10 Personal participation in non-Federal entities.

(a) *Participation—(1) Fundraising and other activities.* Subject to other provisions of this part, DoD employees may voluntarily participate in activities of non-Federal entities as individuals in their personal capacities provided they act exclusively outside the scope of their official position. Purely personal, unofficial, volunteer efforts to support fundraising are not prohibited where the efforts do not imply DoD endorsement. The head of the DoD component command or organization may authorize such activities outside the Federal Government workplace, such as at public entrances, in community support facilities and in personal quarters. See 5 CFR part 950 and Executive Order 12353. These activities may be further limited by Federal Government building and grounds regulations.

(2) *Professional associations and learned societies.* Agency designees may permit their DoD employees to voluntarily participate in the activities of non-profit professional associations and learned societies without being charged leave and to use Federal Government equipment or administrative support services to prepare papers to be

⁹See footnote 4 to § 84.7(d).

¹⁰Written request should be forwarded to: OASD(P&R)/CPP/EEO, room 3D269, Pentagon, Washington, DC 20301.

¹¹See footnote 4 to § 84.7(d).